

Representative Craig Hall proposes the following substitute bill:

EDUCATOR HEARINGS AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends requirements related to hearings held before a local school board or the State Board of Education.

Highlighted Provisions:

This bill:

- ▶ provides that a hearing regarding the dismissal of a school district employee is an informal adjudicative proceeding under the Administrative Procedures Act;
- ▶ provides that a final order or decree from a hearing regarding the dismissal of a school district employee may be appealed to the district court for review in the same manner as an informal adjudicative proceeding under the Administrative Procedures Act;
- ▶ amends the jurisdiction of the district court; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



AMENDS:

53G-11-515, as renumbered and amended by Laws of Utah 2018, Chapter 3

78A-5-102, as last amended by Laws of Utah 2020, Chapter 214

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53G-11-515** is amended to read:

53G-11-515. Hearings before school board or hearing officers -- Rights of the board and the employee -- Subpoenas -- Appeals.

(1) (a) Hearings are held under this part before the school board or before hearing officers selected by the school board to conduct the hearings and make recommendations concerning findings.

(b) The school board shall establish procedures to appoint hearing officers.

(c) The school board may delegate [its] the school board's authority to a hearing officer to make decisions relating to the employment of an employee [~~which~~] that are binding upon both the employee and the school board.

~~[(d) This Subsection (1) does not limit the right of the board or the employee to appeal to an appropriate court of law.]~~

~~[(2) At the hearings, an employee has the right to counsel, to produce witnesses, to hear testimony against the employee, to cross-examine witnesses, and to examine documentary evidence.]~~

~~[(3) Subpoenas may be issued and oaths administered as provided under Section **53E-6-606**.]~~

(2) (a) Hearings held under this part before the school board, or before hearing officers, are informal adjudicative proceedings under Title 63G, Chapter 4, Part 2, Adjudicative Proceedings.

(b) Any final action or order of the school board may be appealed to the district court for de novo review in accordance with the requirements and procedures for an informal adjudicative proceeding under Title 63G, Chapter 4, Part 4, Judicial Review.

Section 2. Section **78A-5-102** is amended to read:

78A-5-102. Jurisdiction -- Appeals.

(1) As used in this section:

(a) "Qualifying offense" means an offense described in Subsection 78A-6-703.2(1)(b).

(b) "Separate offense" means any offense that is not a qualifying offense.

(c) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(2) Except as otherwise provided by the Utah Constitution or by statute, the district court has original jurisdiction in all matters civil and criminal.

(3) A district court judge may issue all extraordinary writs and other writs necessary to carry into effect the district court judge's orders, judgments, and decrees.

(4) The district court has jurisdiction over matters of lawyer discipline consistent with the rules of the Supreme Court.

(5) The district court has jurisdiction over all matters properly filed in the circuit court prior to July 1, 1996.

(6) The district court has appellate jurisdiction over judgments and orders of the justice court as outlined in Section 78A-7-118 and small claims appeals filed in accordance with Section 78A-8-106.

(7) Jurisdiction over appeals from the final orders, judgments, and decrees of the district court is described in Sections 78A-3-102 and 78A-4-103.

(8) The district court has jurisdiction to review:

(a) agency adjudicative proceedings as set forth in Title 63G, Chapter 4, Administrative Procedures Act, and shall comply with the requirements of that chapter in ~~its~~ the district court's review of agency adjudicative proceedings; and

(b) municipal administrative proceedings in accordance with Section 10-3-703.7~~[-]~~₂; and

(c) a final action or order of a school board under Section 53G-11-515.

(9) Notwithstanding Section 78A-7-106, the district court has original jurisdiction over:

(a) a class B misdemeanor, a class C misdemeanor, an infraction, or a violation of an ordinance for which a justice court has original jurisdiction under Section 78A-7-106 if:

(i) there is no justice court with territorial jurisdiction;

(ii) the offense occurred within the boundaries of the municipality in which the district courthouse is located and that municipality has not formed, or has not formed and then

88 dissolved, a justice court; or

89 (iii) the offense is included in an indictment or information covering a single criminal
90 episode alleging the commission of a felony or a class A misdemeanor by an individual who is
91 18 years old or older; or

92 (b) a qualifying offense committed by an individual who is 16 or 17 years old.

93 (10) (a) Notwithstanding Subsection 78A-7-106(2), the district court has exclusive
94 jurisdiction over any separate offense:

95 (i) committed by an individual who is 16 or 17 years old; and

96 (ii) arising from a single criminal episode containing a qualifying offense for which the
97 district court has original jurisdiction under Subsection (9)(b).

98 (b) If an individual who is charged with a qualifying offense enters a plea to, or is
99 found guilty of, a separate offense other than the qualifying offense, the district court shall have
100 jurisdiction over the separate offense.

101 (c) If an individual who is 16 or 17 years old is charged with a qualifying offense and
102 the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal, the
103 exclusive jurisdiction of the district court over any separate offense is terminated.

104 (11) If a district court has jurisdiction in accordance with Subsection (6), (9)(a)(i), or
105 (9)(a)(ii), the district court has jurisdiction over an offense listed in Subsection 78A-7-106(2)
106 even if the offense is committed by an individual who is 16 or 17 years old.

107 (12) The district court has subject matter jurisdiction over an offense for which the
108 juvenile court has original jurisdiction if the juvenile court transfers jurisdiction over the
109 offense to the district court in accordance with Section 78A-6-703.5.

110 (13) The district court has subject matter jurisdiction over an action under Title 78B,
111 Chapter 7, Part 2, Child Protective Orders, if the juvenile court transfers the action to the
112 district court.